

§ 301.80-8

7 CFR Ch. III (1-1-08 Edition)

§ 301.80-8 Inspection and disposal of regulated articles and pests.

Any properly identified inspector is authorized to stop and inspect, and to seize, destroy, or otherwise dispose of, or require disposal of regulated articles and witchweed as provided in sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754), in accordance with instructions issued by the Deputy Administrator.

[35 FR 10553, June 30, 1970, as amended at 36 FR 24917, Dec. 24, 1971; 41 FR 27374, July 2, 1976; 66 FR 21052, Apr. 27, 2001]

§ 301.80-9 Movement of witchweed.

Regulations requiring a permit for, and otherwise governing the movement of witchweed in interstate or foreign commerce are contained in the Federal plant pest regulations in part 330 of this chapter. Applications for permits for the movement of the pest may be made to the Deputy Administrator.

[35 FR 10553, June 30, 1970, as amended at 36 FR 24917, Dec. 24, 1971]

§ 301.80-10 Nonliability of the Department.

The U.S. Department of Agriculture disclaims liability for any costs incident to inspections or compliance with the provisions of the quarantine and regulations in this subpart, other than for the services of the inspector.

[35 FR 10553, June 30, 1970, as amended at 36 FR 24917, Dec. 24, 1971]

Subpart—Imported Fire Ant

SOURCE: 57 FR 57327, Dec. 4, 1992, unless otherwise noted.

QUARANTINE AND REGULATIONS

§ 301.81 Restrictions on interstate movement of regulated articles.

No person may move interstate from any quarantined area any regulated article except in accordance with this subpart.

§ 301.81-1 Definitions.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture (APHIS).

Certificate. A document in which an inspector or a person operating under a compliance agreement affirms that a specified regulated article meets the requirements of this subpart and may be moved interstate to any destination.

Compliance agreement. A written agreement between APHIS and a person engaged in growing, handling, or moving regulated articles that are moved interstate, in which the person agrees to comply with the provisions of this subpart and any conditions imposed under this subpart.

Imported fire ant. Living imported fire ants of the species *Solenopsis invicta* Buren and *Solenopsis richteri* Forel, and hybrids of these species.

Infestation (infested). The presence of an imported fire ant queen or a reproducing colony of imported fire ants, except that on grass sod and plants with roots and soil attached, an infestation is the presence of any life form of the imported fire ant.

Inspector. An APHIS employee or other person authorized by the Administrator to enforce the provisions of this subpart.

Interstate. From any State into or through any other State.

Limited permit. A document in which an inspector affirms that a specified regulated article not eligible for a certificate is eligible for interstate movement only to a specified destination and in accordance with conditions specified on the permit.

Movement (moved). The act of shipping, transporting, delivering, or receiving for movement, or otherwise aiding, abetting, inducing or causing to be moved.

Noncompacted soil. Soil that can be removed from an article by brisk brushing or washing with water under normal city water pressure (at least 4 gallons per minute at 40 to 50 pounds per square inch through a ½-inch orifice).

Person. Any association, company, corporation, firm, individual, joint stock company, partnership, society, or any other legal entity.

Reproducing colony. A combination of one or more imported fire ant workers and one or more of the following immature imported fire ant forms: Eggs, larvae, or pupae.

Soil. Any non-liquid combination of organic and/or inorganic material in which plants can grow.

Soil-moving equipment. Equipment used for moving or transporting soil, including, but not limited to, bulldozers, dump trucks, or road scrapers.

State. The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any State, territory, or possession of the United States.

§ 301.81-2 Regulated articles.

The following are regulated articles:

(a) Imported fire ant queens and reproducing colonies of imported fire ants.¹

(b) Soil,² separately or with other articles, except potting soil that is shipped in original containers in which the soil was placed after commercial preparation.

(c) Baled hay and baled straw stored in direct contact with the ground;

(d) Plants and sod with roots and soil attached, except plants maintained indoors in a home or office environment and not for sale;

(e) Used soil-moving equipment, unless removed of all noncompacted soil; and

(f) Any other article or means of conveyance when:

(1) An inspector determines that it presents a risk of spread of the imported fire ant due to its proximity to an infestation of the imported fire ant; and

(2) The person in possession of the product, article, or means of conveyance has been notified that it is regulated under this subpart.

(Approved by the Office of Management and Budget under control number 0579-0102)

[57 FR 57327, Dec. 4, 1992, as amended at 59 FR 67133, Dec. 29, 1994]

¹Permit and other requirements for the interstate movement of imported fire ants are contained in part 330 of this chapter.

²The movement of soil from Puerto Rico is subject to additional provisions in part 330 of this chapter.

§ 301.81-3 Quarantined areas.

(a) The Administrator will quarantine each State or each portion of a State that is infested.

(b) Less than an entire State will be listed as a quarantined area only if the Administrator determines that:

(1) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles listed in § 301.81-2 that are equivalent to the interstate movement restrictions imposed by this subpart; and

(2) Designating less than the entire State as a quarantined area will prevent the spread of the imported fire ant.

(c) The Administrator may include uninfested acreage within a quarantined area due to its proximity to an infestation or inseparability from the infested locality for quarantine purposes, as determined by:

(1) Projections of spread of imported fire ant around the periphery of the infestation, as determined by previous years' surveys;

(2) Availability of natural habitats and host materials, within the uninfested acreage, suitable for establishment and survival of imported fire ant populations; and

(3) Necessity of including uninfested acreage within the quarantined area in order to establish readily identifiable boundaries.

(d) The Administrator or an inspector may temporarily designate any nonquarantined area as a quarantined area in accordance with the criteria specified in paragraphs (a), (b), and (c) of this section. The Administrator will give written notice of this designation to the owner or person in possession of the nonquarantined area, or, in the case of publicly owned land, to the person responsible for the management of the nonquarantined area; thereafter, the interstate movement of any regulated article from an area temporarily designated as a quarantined area is subject to this subpart. As soon as practicable, this area either will be added to the list of designated quarantined areas in paragraph (e) of this section, or the Administrator will terminate the designation. The owner or person in possession of, or, in the case